

## INTERFERENCE DIGEST

Interference No. 106,617

Paper No.

Name: Paul D. Manos

Serial No.: 10/606,946

Patent No. 7,264,847 granted 09/04/07

Title: Lower alkyl carboxylic acid moieties for preventing oxidative corrosion of metals and organoleptic stabilizer for food and beverages

Filed: 06/26/03

Interference with Caton

### DECISION ON MOTIONS

Administrative Patent Judge, \_\_\_\_\_ Dated, \_\_\_\_\_

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### FINAL DECISION

Board of Patent Appeals and Interferences, \_\_\_\_\_ Dated, \_\_\_\_\_

Court, \_\_\_\_\_ Dated, \_\_\_\_\_

### REMARKS

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This should be placed in each application or patent involved in interference in addition to the interference letters.



# UNITED STATES PATENT AND TRADEMARK OFFICE

DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BOARD OF PATENT APPEALS AND INTERFERENCES  
BOX INTERFERENCE, WASHINGTON, D.C. 20231

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Filed by: Judge Fred E. McKelvey  
Telephone: 571-272-4683  
Facsimile: 571-273-0042

Patentee: MANOS  
Application No.: 10/606,946 now Patent No.  
7,264,847, granted 09/04/07  
Filed: 06/26/03  
For: Lower alkyl carboxylic acid moieties for  
preventing oxidative corrosion of metals and  
organolectic stabilizer for food and beverages

The above-identified application or patent has been forwarded to the Board of Patent Appeals and Interferences because it is adjudged to interfere with another application or patent. An interference has been declared. The interference is designated as No. 105,617.

Notice is hereby given the parties of the requirement of the law for filing in the Patent and Trademark Office a copy of any agreement "in connection with or in contemplation of the termination of the interference." 35 U.S.C. § 135(c).

/Fred E. McKelvey/  
FRED E. McKELVEY  
Senior Administrative Patent Judge

BoxInterferences@uspto.gov  
Telephone: 571-272-4683

Paper 1  
Entered: 25 March 2008

UNITED STATES PATENT AND TRADEMARK OFFICE  
BOARD OF PATENT APPEALS AND INTERFERENCES

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Patent Interference 105,617 McK  
Technology Center 1700

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GREGORY JAMES CATON,

Application 10/782,405,  
Junior Party,

v.

PAUL D. MANOS,

Patent 7,264,847 B2,  
Senior Party,

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**DECLARATION**

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**Part A**  
**Declaration of Interference**

An interference is declared between the above-identified parties.  
35 U.S.C. § 135(a); 37 CFR § 41.203(b).  
Details of the application, patent, count and claims designated as  
corresponding or as not corresponding to the count appear in Parts E and F  
of this DECLARATION.

**Part B**  
**Judge Managing the Interference**

Senior Administrative Patent Judge Fred E. McKelvey has been  
designated to manage the interference. 37 CFR § 41.104(a).

**Part C**  
**Standing Order**

A Trial Division STANDING ORDER (3 Jan. 2006) (Paper 2)  
accompanies this DECLARATION.  
The STANDING ORDER applies to this interference, including the  
provisions related to Electronic Filing. See ¶ 105, pages 17-20.

1 **Part D**  
2 **Initial Conference Call and Motions Lists**  
3

4 Conference Call

5 A conference call to discuss the interference is set for:  
6 **3 p.m. (1500 hours Eastern Daylight Time) on 07 May 2008.**  
7 The Board will initiate the conference call.

8  
9 Motions Lists

10 On or before:  
11 **Noon (1200 hours EDT) on 02 May 2008,**  
12 each party shall file, and on or before:  
13 **5:00 p.m. (1700 hours EDT) on 02 May 2008,**  
14 each party shall serve a notice stating the relief the party requests, *i.e.*, a  
15 motions list including motions the party seeks authorization to file. 37 CFR  
16 § 41.120(a); STANDING ORDER ¶ 204 (Paper 2, page 58).

17 The default procedure for filing and serving motions lists is that  
18 motions lists are to be *filed* before being *served*.

19 By filing before service, one party will not have access to an  
20 opponent's motions list prior to the filing of the party's motions list.

21 Nevertheless, the parties may mutually agree to discuss and serve  
22 motions lists at any time prior to the date and time motions lists are due.

23 The following shall be included in motions lists.

24 (1) Proposed motion for benefit (*i.e.*, to be accorded an  
25 earlier constructive reduction to practice) must identify the application(s) for  
26 which benefit will be sought.

1                   (2) Proposed motion to attack benefit must identify the  
2 application(s) to be attacked.

3                   (3) Proposed motion seeking judgment against an opponent  
4 based on alleged unpatentability must identify the statutory basis for the  
5 alleged unpatentability and:

6                   (a) if based on prior art, identify the prior art;  
7                   (b) if based on the first paragraph of 35 U.S.C. § 112,  
8 (i) identify whether written description, enablement or best mode will be the  
9 basis for the motion, and (ii) briefly identify the basis for any alleged  
10 unpatentability;

11                   (c) if based on an alleged failure to comply with  
12 35 U.S.C. § 135(b), briefly identify the reason;

13                   (d) if based on the second paragraph of 35 U.S.C.  
14 § 112, identify the limitation which is believed to be indefinite.

15                   (4) Proposed motion based on no interference-in-fact shall  
16 briefly identify the reason no interference-in-fact is believed to exist.

17                   (5) Proposed motion to designate additional claims as  
18 corresponding to a count or as not corresponding to a count shall identify the  
19 claims involved.

20                   (6) Proposed motion to add or substitute a new count shall  
21 explain why the added or substitute count is necessary.

22           A motions list shall not contain any "reservation clause" whereby a  
23 party purports to reserve a right to file additional motions. Additional  
24 motions are those authorized by the Board consistent with the rules.

25           A sample schedule for taking action during the motions phase of the  
26 interference appears as Form 2 (page 69) of the STANDING ORDER.

1           Counsel are encouraged to discuss the schedule prior to the  
2 conference and agree to on times for taking action generally consistent with  
3 the sample schedule.

4           A typical motions phase last about eight (8) months.

5           The parties should be prepared at the conference to justify any request  
6 for shorter or longer time periods.

7

1 **Part E**

2  
3 **Identification of the Parties**  
4 **Assignment of Exhibit Numbers**  
5 **Initiating Settlement Discussions**  
6

7 Junior Party

8  
9 Inventor: Gregory James Caton, LA  
10  
11 Application: Application 10/782,405,  
12 filed 19 February 2004  
13  
14 Title: Lower alkyl carboxylic acid moieties as  
15 organoleptic stabilizers and preservatives of food  
16 and beverages and for preventing oxidative  
17 corrosion of metals.  
18  
19 Real party in interest: Intellectual Concepts, LLC  
20

21 Senior Party

22  
23 Inventor: Paul D. Manos, NC  
24  
25 Patent: U.S. patent 7,264,847 B2  
26 granted 04 September 2007  
27 based on application 10/606,946,  
28 filed 26 June 2003  
29  
30 Title: Lower alkyl carboxylic acid moieties for  
31 preventing oxidative corrosion of metals and  
32 organoleptic stabilizer for food and beverages  
33  
34 Real party in interest: Zannier, Inc.  
35

36 Assignment of Exhibit Numbers

37 Senior party: Exhibit Numbers 1001 through 1999.  
38 Junior party: Exhibit Numbers 2001-2999.



1 Board: Exhibit Numbers 3001-3999.

2  
3 Initiating Settlement Discussions  
4 STANDING ORDER ¶ 126.1 (Paper 2, pages 40-41)  
5

6 The senior party is responsible for initiating settlement discussions  
7 required by the STANDING ORDER.

8 **Part F**  
9 **Count and Claims of the Parties**

10  
11 A method according to any of claims 2, 4, 8, 17, 27, 28 or 30 of  
12 Caton application 10/782,405

13  
14 or

15  
16 a method according to any of claims 1, 15, 17, 19, 24, 25 or 26 of  
17 Manos patent 7,264,847 B2.

18  
19 The claims of the parties are:

20  
21 Caton: 2, 4-15, 17-28 and 30

22  
23 Manos: 1-26

24  
25 The claims that correspond to Count 1 are:

26  
27 Caton: 2, 4-15, 17-28 and 30

28  
29 Manos: 1-26

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31 The claims that do not correspond to Count 1 are:

32  
33 Caton: None

34  
35 Manos: None

1           The parties are accorded an earlier constructive reduction to practice  
2 (*i.e.*, benefit for the purpose of priority) of the following applications:

3           Caton:       Provisional application 60/448,153  
4                       filed 19 February 2003

5  
6           Manos:       Provisional application 60/448,153  
7                       filed 19 February 2003

8  
9           **The Board notes that both parties are accorded an earlier**  
10 **constructive reduction to practice based on the same provisional**  
11 **application. The provisional application names both Caton and**  
12 **Manos as inventors. See Paper 3.**

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1 **Part H**  
2 **Order Form for Requesting File Copies**

3 When requesting file copies, a party shall use STANDING ORDER  
4 Form 4 (page 71).

5 Use of form 4 will expedite processing of any request.

6 a party should attach to any request for file copies a photocopy of  
7 Part E of this DECLARATION with a hand-drawn circle around the patent  
8 and application files for which a copy of a file wrapper is requested.

9 The parties are advised that a single order for file copies may be filled  
10 by the Office of Public Records at more than one time. STANDING  
11 ORDER ¶ 109.2 (Paper 2, pages 25-27).

12 **Part I**  
13 **Required Paragraph of Affidavits and Declarations**  
14  
15

16 The Board has experienced cases in which a witness has belatedly  
17 advanced reasons why the witness would be unable to appear for cross  
18 examination at a reasonable time and place in the United States.

19 Consequently, to prevent surprise and hardship to the party relying on  
20 the testimony of a witness, the following paragraph must be included on the  
21 signature page of all affidavits (including declarations) filed in this case.

22 STANDING ORDER ¶ 157.2 (Paper 2, pages 52-53).

23 In signing affidavit (declaration), I understand that the affidavit  
24 (declaration) will be filed as evidence in a contested case before  
25 the Board of Patent Appeals and Interferences of the United  
26 States Patent and Trademark Office. I also acknowledge that I  
27 may be subject to cross examination in the case and that cross  
28

1 examination will take place within the United States. If cross  
2 examination is required of me, I will appear for cross  
3 examination within the United States during the time allotted  
4 for cross examination.  
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9 /ss/ Fred E. McKelvey )  
10 FRED E. McKELVEY )  
11 *Senior Administrative Patent Judge* )  
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14 Entered at:  
15  
16 Kailua, HI  
17 25 March 2008

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2  
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